

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE**

<b>COMMONWEALTH OF VIRGINIA</b>	)	<b>CASE NOS. CR03-3089, CR03-3090,</b>
	)	<b>CR03-3091</b>
<b>VERSUS</b>	)	
<b>LEE BOYD MALVO a/k/a</b>	)	<b>INDICTMENT - CAPITAL MURDER (2</b>
<b>John Lee Malvo</b>	)	<b>Counts) and USING A FIREARM IN THE</b>
		<b>COMMISSION OF A FELONY</b>

**ORDER**

On December 4, 2003, the Commonwealth renewed of its motion for a gag order.

The Court has previously cautioned counsel to avoid commenting on the evidence in this case during the daily news conferences that are held after Court adjourns each afternoon.

Despite the Court's admonition, there have been media reports detailing evidence that the Court has ruled inadmissible.

The Virginia Rules of Professional Conduct, Rule 3.6 (A) states:

A lawyer participating in or associated with the investigation or the prosecution or the defense of a criminal matter that may be tried by a jury shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication that the lawyer knows, or should know, will have a substantial likelihood of interfering with the fairness of the trial by a jury.

The United States Supreme Court has opined that "the outcome of a criminal trial is to be determined by impartial jurors, who know as little as possible about the case... Extrajudicial comments on, or discussion of evidence which might never be admitted at trial and *ex parte* statements

by counsel giving their version of the facts obviously threaten to undermine this basic tenant.” Gentile v. State Bar of Nevada, 501 U.S. 1030 (1991).

IT IS THEREFORE ORDERED, the Commonwealth’s motion for a gag order is GRANTED. All attorneys (including their employees and agents) who are involved with this case in any manner, whether as counsel of record or otherwise, shall not to hold any press conferences or have any conversations with press or media representatives regarding this case until the trial is over and the jury has been discharged. No such attorney shall provide the media with the copies of any documents that have not been admitted into evidence in this case.

ENTERED this 4<sup>th</sup> day of December, 2003.

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JANE MARUM ROUSH  
JUDGE DESIGNATE